IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11549 of 2004

Between:

Azam Hussain Khalidi, S/o. Kazim Hussain Khalidi,
R/o. H.No. 16-8-933/1/E, New Malakpet, Hyderabad.

..... PETITIONER

AND

1 The Regional Passport Officer, Secunderabad.
2 The Secretary Ministry of External Affairs, Central Secretariat, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or a writ particularly one in the nature of writ of mandamus directing the respondents herein to correct the date of Birth of the petitioner in passport bearing No. E3447324 as 18-1-1982 instead of 10-12-1983 by issuing a fresh copy of the passport on payment of required necessary Fees as per Law.

For the Petitioner: MR. ALI FAROOQUE, Advocate

For the Respondents: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government for the respondents.

It is the case of the petitioner that his actual date of birth is 18-01-1982, but in the Passport dated 17-10-2002 issued to him by the first respondent, his date of birth is wrongly mentioned as
10-12-1983, and that he verified the said mistake recently, and that though he approached the first respondent, to alter his date of birth in the Passport and issue fresh passport, the first respondent is refusing to correct the same on the ground that they have no power to make correction of date of birth in the Passport. The petitioner, therefore, filed the present writ petition praying to direct the respondents to enter his correct date of birth in the passport issued by him, and issue fresh Passport.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.
No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the Passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. However, the petitioner has not explained the reasons for delay in approaching the first respondent authority for correction of date of birth. As such, the petitioner is directed to file an affidavit before the first respondent, explaining the reasons for delay in approaching the Passport Officer for correction of his date of birth in the passport issued to him.

On filing such an affidavit and application for correction of date of birth, the first respondent after satisfying with the reasons explained by the petitioner for the delay in approaching the Passport Officer for correction of date of birth, shall process the application for correction of date of birth after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Date: 08-07-2004
Svv

To

1. The Regional Passport Officer, Secunderabad.

2. The Secretary Ministry of External Affairs, Central Secretariat, New Delhi.

3. Two CD copies.